

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

OKLAHOMA CHAPTER OF
THE AMERICAN ACADEMY
OF PEDIATRICS, *et al.*,

Case No. 01-CV-187-CVE-SAJ

ORDER

Comes on for hearing Plaintiffs' Motion to Strike Mercer Report [Dkt.#390], Defendants' Motion to Strike Plaintiffs' Reply Brief [Dkt.#403], and Defendants' Motion to Compel Production of Documents [Dkt.#409], and the Court, having considered the argument and authority presented, finds as follows:

Plaintiffs' Motion to Strike Mercer Report [Dkt.#390] is denied for the reason there is nothing facially or procedurally that would cause the Court to strike the report. Any issues as to credibility, applicability or use of the report is reserved for determination by the trial court. The Court makes no finding as to whether the report is based upon the correct legal standard or whether the report complies with the Order previously entered by the trial court.

Defendants' Motion to Strike Plaintiffs' Reply Brief [Dkt.#403] is denied.

The Court finds there is sufficient content which could be considered new matter to determine the reply brief is in compliance with LCvR.7.2(h).

Defendants' Motion to Compel Production of Documents [Dkt.#409] is granted in part and deemed moot in part. The parties advised the Court that the issues regarding Interrogatories and Requests for Admissions were resolved. The only remaining issue concerns the production of an expert witness report by Sam Flint and the scheduling of Mr. Flint's deposition prior to the upcoming compliance hearing.

Plaintiffs' agree to make every effort to expedite the written report of Mr. Flint, if possible to be produced by May 10, 2006, but in no event later than May 15, 2006. Mr. Flint is to be made available for deposition within five (5) days from date of production of the report.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Strike Mercer Report [Dkt.#390] is denied, Defendants' Motion to Strike Plaintiffs' Reply Brief [Dkt.#403] is denied, and Defendants' Motion to Compel Production of Documents [Dkt.#409] is granted in part and deemed moot in part as set forth herein.

DATED THIS 3rd DAY OF MAY, 2006.


Sam A. Joyner
United States Magistrate Judge